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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,776	04/20/2009	Jean-Pierre Giraud	62357.023/202	6432
32361 7590 12/09/2011 GREENBERG TRAUIG (NY) MET LIFE BUILDING 200 PARK AVENUE NEW YORK, NY 10166				
EXAMINER RANDALL, JR., KELVIN L				
ART UNIT 3651		PAPER NUMBER		
NOTIFICATION DATE 12/09/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary****Application No.**

10/595,776

**Applicant(s)**

GIRAUD, JEAN-PIERRE

**Examiner**

KELVIN L. RANDALL, JR.

**Art Unit**

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/23/2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-6 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 6 is/are allowed.
- 7) ☒ Claim(s) 1-5 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-133)  
Paper No(s)/Mail Date 05/10/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show all the features recited in the claims. Examiner notes that there needs to be reference numerals used to show the features claimed for a better understanding of the invention as described in the specification. Examiner notes that the specification would also need said reference numerals. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner notes that it is unclear as to what (b) the body that is attached to the main housing to form a moisture tight seal with the main housing is referring to as recited in claim 1. There appears to possibly be a missing function or some other language which ties the sentences in with the rest of the paragraph.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (US 7,661,555 B1– hereinafter Evans) in view of Nobilet et al. (US 2009/0302048 – hereinafter Nobilet) and Joseph Bonk (3,986,479 - hereinafter Bonk).  
Re Claims 1-5:

Evans teaches a main housing (at 8) with an integrally attached hinged lid (3), wherein the housing and lid are one injection molded part that interfaces with a body (2) and, when the lid (3) is closed, the lid (3) creates a seal with the main housing (at 8), the lid (3) having a flexible arm (5) attached to an underside of the lid (3), an opening (4) in a topside of the main housing (at 8) where a portion (32) of the opening (4) acts as a hinge point (32) for the flexible arm (5), and, when the lid (3) is opened, the arm (5) assists in dispensing the film out of the package (see Figs. 3A-3D); the body (2) that is attached to the main housing (at 8) to form a seal with the main housing (at 8); and an indexing finger (51) composed of an elastomer and attached to the underside of the hinged lid (3) (col. 4 lines 11-14), the finger (51) interacts with the flexible arm (5) to dispense the individual strips (see Figs. 1-2D), but fails to specifically teach wherein the housing and lid are one injection molded part that interfaces with a body and the lid creates a moisture tight seal with the main housing.

Nobilet teaches a housing and lid are one injection molded part that interfaces with a body (see Fig. 9 and paragraphs [0058, 0079, 0080, and 0090-0093]). Re Claim 5: Nobilet teaches a child resistant feature is incorporated into a dispenser ([paragraph 0030]). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Evans with that of Nobilet so as to provide a suitable material for use as commonly known in the art for the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125

USPQ 416 (CCPA 1960) and one-piece construction, in place of separate elements fastened together, is a design consideration within the skill of the art. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965) (Examiner notes that the same applies for claims 2-4 in regards to selection of material).

Bonk teaches a moisture tight seal with a main housing (see Abstract). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Evans with that of Nobilet and Bonk so as to protect the inner contents of a container from drying out.

#### ***Allowable Subject Matter***

3. Claim 6 is allowed.

#### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELVIN L. RANDALL, JR. whose telephone number is (571)270-5373. The examiner can normally be reached on Monday-Friday 8:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. L. R./  
Examiner, Art Unit 3651

/Gene Crawford/  
Supervisory Patent Examiner, Art Unit 3651